

JURISDICTION

3. At the time of the motor vehicle collision described herein Jason R. Wilburn was a mail carrier for the United States Postal Service who was a federal employee acting within the course and scope of his federal employment pursuant to 28 U.S.C. §§ 1346(b) (1), 2675, 2672 and 2679.

4. This action is brought pursuant to 28 U.S.C. §§ 2671, et seq., known as the Federal Tort Claims Act.

5. This court is vested with jurisdiction pursuant to 28 U.S.C. § 1346(b).

6. On June 10, 2020, Plaintiff submitted her written notice of the Administrative Tort Claim to the United States Postal Service, an agency of Defendant, requesting \$846,436.93 in money damages for personal injuries and \$6,902 for property damages, which came to total damages of \$853,338.93.

7. The United States Postal Service received Plaintiff's claim on June 11, 2020.

8. The United States Postal Service, has had the claim for 6 months and has not settled, denied or adjudicated the claim so the claim is deemed denied and Plaintiff is entitled to file suit in this court pursuant to 28 U.S.C. § 2675(a).

9. Plaintiff has exhausted her administrative remedies as set forth in the Federal Tort Claims Act prior to filing this suit.

10. The cause of action alleged herein accrued in this district and venue properly lies in this district.

COUNT I

(Common Law Negligence Claim for Personal Injuries)

COMES NOW the Plaintiff Charlene Sue Robinson and for Count I of her cause of action against Defendant United States of America states and alleges:

11. On June 15, 2018, federal employee Jason R. Wilburn was operating a 1993 Chevrolet on and along Martin Springs Drive in a generally westerly direction in the area and vicinity of the intersection with a private driveway known as PVT 1507 Martin Springs Drive in Phelps County, Missouri.

12. At the date and time aforementioned the 1993 Chevrolet being operated by Jason R. Wilburn was owned by the United States Postal Service.

13. At the date and time aforementioned Plaintiff was operating her 2003 Ford Ranger pickup in a generally easterly direction on and along Martin Springs Drive in the area and vicinity of PVT 1507 Martin Springs Drive.

14. As Plaintiff was traveling east on Martin Springs Drive approaching the private driveway aforementioned Jason R. Wilburn turned left into the path of Plaintiff's east-bound vehicle approaching from the opposite direction causing a sudden and violent collision.

15. Jason R. Wilburn was negligent in failing to exercise the highest degree of care as follows:

- a) Jason R. Wilburn failed to keep a careful lookout;
- b) Jason R. Wilburn failed to yield the right-of-way; and/or

c) Jason R. Wilburn knew or by the exercise of the highest degree of care could have known that there was a reasonable likelihood of collision at the time thereafter to have stopped but failed to do so.

16. As a direct and proximate result of the collision aforementioned Plaintiff sustained injuries to her head, left eye, neck and back, said injuries including a concussion, post concussive syndrome, post traumatic headaches, blurred vision, neck pain, back pain, radicular pain and numbness to her extremities, tremors, and anxiety and sleep disturbance, said injuries causing Plaintiff to incur medical treatment and related care and expenses in the past and in the future, causing Plaintiff to need assistance and to incur expenses in caring for property and performing the activities of daily living, and causing Plaintiff pain and suffering in the past and in the future.

WHEREFORE, Plaintiff prays for damages against Defendant in Count I for her bodily injuries in the amount of \$846,436.93 together with her costs herein incurred, and for such further and additional relief as the court may deem just and proper.

Count II

(Common Law Negligence Claim for Property Damages)

COMES NOW the Plaintiff and for Count II of her Complaint against Defendant for property damages states:

17. Plaintiff restates, realleges and incorporates by reference each and every fact and allegation contained and set forth above as if fully, accurately and completely set forth herein.

18. As a direct and proximate result of the collision aforementioned Plaintiff sustained damages to her 2003 Ford Ranger in the amount of \$6,902.

WHEREFORE, Plaintiff prays for damages against Defendant in Count II for property damages in the amount of \$6,902 together with such further relief and orders as the court may deem just and proper.

Count III

(Negligence Per Se Claim for Personal Injuries)

COMES NOW the Plaintiff and for Count III of her complaint against Defendant states:

19. Plaintiff restates, realleges, and incorporates by reference each and every fact and allegation contained and set forth above as if fully, accurately and completely set forth herein.

20. § 304.351.6 RSMo provides in relevant part that

“The driver of a vehicle intending to make a left turn into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction when the making of such left turn would create a traffic hazard.”

21. Jason R. Wilburn was not directed to proceed by a police officer.

22. Jason R. Wilburn failed to yield the right-of-way to Plaintiff’s vehicle which was approaching from the opposite direction when the making of such left turn created a traffic hazard in violation of § 304.351.6 RSMo.

23. Jason R. Wilburn's actions in violation of the statute aforementioned amount to negligence per se.

24. As a direct and proximate result of the collision aforementioned Plaintiff sustained injuries to her head, left eye, neck and back, said injuries including a concussion, post concussive syndrome, post traumatic headaches, blurred vision, neck pain, back pain, radicular pain and numbness to her extremities, tremors, and anxiety and sleep disturbance, said injuries causing Plaintiff to incur medical treatment and related care and expenses in the past and in the future, causing Plaintiff to need assistance and to incur expenses in caring for property and performing the activities of daily living, and causing Plaintiff pain and suffering in the past and in the future.

WHEREFORE, Plaintiff prays for damages against Defendant in Count III for her bodily injuries in the amount of \$846,436.93 together with her costs herein incurred, and for such further and additional relief as the court may deem just and proper.

Count IV

(Negligence Per Se Claim for Property Damages)

COMES NOW the Plaintiff and for Count IV of her Complaint against Defendant for property damages states:

25. Plaintiff restates, realleges and incorporates by reference each and every fact and allegation contained and set forth above as if fully, accurately and completely set forth herein.

26. As a direct and proximate result of the collision aforementioned Plaintiff sustained damages to her 2003 Ford Ranger pickup in the amount of \$6,902.

WHEREFORE, Plaintiff prays for damages against Defendant in Count IV for property damages in the amount of \$6,902 together with such further relief and orders as the court may deem just and proper.

HENRY & WILLIAMS, P.C.

by: /s/ H. Lynn Henry
H. Lynn Henry #23679
1207 Porter Wagoner Blvd.
P.O. Box 617
West Plains, MO 65775
Phone: 417/256-8133
Fax: 417/256-8969
Attorneys for Plaintiff